

REMARKS

By the foregoing amendments claims 3 and 13-16 have been cancelled and claims 1, 5, 8 and 11 have been amended. Thus, claims 1, 4-8 and 10-12 remain in the application.

Claims 1, 4-7, 12 and 16 were rejected in the outstanding Office Action under 35 U.S.C. §102(b) as being anticipated by Tornier 2003/0149485 as stated on pages 2 and 3 of the Office Action.

Claim 8 stands rejected under 35 U.S.C. §102(e) as being anticipated by Guederian et al. 2004/0059424 as set forth on page 3 of the Office Action.

Claims 3 and 13-15 have been rejected in the Office Action under 35 U.S.C. §103(a) as being unpatentable over Tornier 2003/0149485 in view of Guederian et al. 2004/0059424. The references are combined for the reasons and in the manner stated on pages 3 and 4 of the Office Action.

Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Guederian et al. 2004/0059424 in view of Tornier 2003/0149485 as stated on page 4 of the Office Action.

These rejections of Applicants' claims are hereby traversed and reconsideration thereof is respectfully requested in view of the above amendments to the claims and Applicants' remarks set forth below.

The improved shoulder joint prosthesis and method of fitting a shoulder joint prosthesis of the present invention as recited in the application claims as amended are specific an at least two-piece humeral head prosthesis composed of a calotte or joint head, and an attachment body. With reference to the disclosed example embodiment, the attachment body of the shoulder prosthesis is designed with at least two parts, including an attachment part for the mounting attachment of the calotte, as well as a mounting segment to

effect an at least cement-free anchoring of the attachment body within the bone. The attachment part in the example embodiment is in the form of a disk-like positioning body 5 having a medial hole 19 and an at least circular projecting collar 15 about the medial hole. The mounting segment of the attachment body has a hollow screw, 7 in the application figures, provided in order to affix the positioning body to the bone through the projecting collar and the medial hole. With this construction, the collar guides the hollow screw during the method of fitting a shoulder joint prosthesis to ensure the positionally correct insertion of the hollow screw into the medial hole of the disk-like positioning body as discussed in the paragraph bridging pages 4 and 5 of the substitute specification. The cited references do not anticipate, 35 U.S.C. §102, or render obvious, 35 U.S.C. § 103, this improved shoulder joint prosthesis and method of fitting a shoulder joint prosthesis of the invention as recited in the claims as amended.

The above amendments to the claims have cancelled claim 3 which recited that the anchoring body has a hollow screw. This limitation has been added to independent claim 1 as amended. Further, a limitation that the disk-like positioning body has an at least nearly circular projecting collar about the medial hole from dependent claim 5 has been added to claim 1 as amended and amended claim 8.

The published patent application of Tornier 2003/0149485 discloses a prosthetic element comprising two components and process for assembling such a prosthetic element. In pertinent part, it is noted that the attachment body of Tornier is a one-part piece and not two-part designed as disclosed and claimed by Applicants. In Tornier, the attachment body is the part 2, as

shown for example within Figure 1 of the reference drawings. The screw 3 in Tornier is not responsible for fixing the attachment part 2 to the bone but is responsible for fixing the first principal component-joint head 1 at the attachment body 2, which is responsible for fixing the prosthesis at the bone. However, the screw 3 is not responsible for an fixation of the prosthesis at the bone.

The published patent application to Guederian et al. 2004/0059424 discloses a metal back prosthetic glenoid component with cemented pegs and hollow metal cage screw. While Guederian et al. disclose the use of a hollow metal cage screw 8 for mounting a back glenoid prosthesis component 2, the construction in Guederian et al. does not disclose a positioning body having an at least nearly circular projecting collar about a medial hole to position the hollow screw when fixing the attachment body as in the present invention. This projecting collar, which is designated with number 15 within the application drawings, ensures that the positioning body while being fixed with the hollow screw is positioned correctly, which means with a correct angle between the prosthesis and the bone respectively. Applicants' shoulder joint prosthesis and method of fitting a shoulder joint prosthesis as recited in the claims as amended are not anticipated, 35 U.S.C. §102, or rendered obvious, 35 U.S.C. §103, by Guederian et al. alone or in combination with Tornier.

In view of the above amendments and remarks, it is respectfully submitted that the claims as amended now patentably define over the cited references. Accordingly, reconsideration and allowance of the amended claims is requested.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 635.46315X00) and please credit any excess fees to such deposit account.

Respectfully submitted,

/Ronald J. Shore/

Ronald J. Shore

Registration No. 28,577

ANTONELLI, TERRY, STOUT & KRAUS, LLP

RJS/kmh

Attachments